



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

EXECUTIVE DIRECTOR

Lieutenant Diane Goldstein, Ret.
Nevada, USA

BOARD OF DIRECTORS

Deputy Chief Wayne Harris, Ret.
Chair, New York, USA

Major Neill Franklin, Ret.
Treasurer, Florida, USA

Professor Jody Armour
Secretary, California, USA

Sergeant Terry Blevins, Fmr.
California, USA

Chief Mike Butler, Ret.
Colorado, USA

Chief Brendan Cox, Ret.
New York, USA

Ms. Nadine Jones
New Jersey, USA

Thomas Schoolcraft
Transitions Coordinator
Minnesota, USA

Supt. Richard Van Wickler, Ret.
New Hampshire, USA

Det. Sgt. Neil Woods, Ret.
Derbyshire, England, LEAP UK

Date: February 21, 2023

Re: HB 430 Police Immunity and Accountability Act

Position: SUPPORT

To: Maryland House Judiciary Committee

Dear Members of the Committee,

Thank you for the opportunity to testify today. As a retired Major with the Maryland State Police, I am writing to express my support for HB 430. This bill would improve police-community trust by ensuring that the state of Maryland protects the right to bring a lawsuit when police violate someone's constitutional rights.

During my 34 years of service in law enforcement, in addition to the State Police, I served with the Maryland Transit Police and as head of training for the Baltimore Police Department. Across all three agencies, I saw that to prevent and solve a crime, police need community members to cooperate and provide information about what they have witnessed. Folks will only cooperate if they trust us. Trust-building is not an optional, feel-good extracurricular activity for police, it is a core responsibility with a direct link to public safety.

I also saw that we lost substantial trust because we could not show the public that we could hold our officers accountable when necessary. Most officers worked hard to respect individuals' dignity as well as their constitutional rights. However, when an officer ignored their oath to protect and serve by committing an egregious violation of someone's rights, the department often took no responsibility for that violation, and that person often received no justice. Recently, [national media has shown](#) the public this failure to hold officers accountable, causing justified yet damaging outrage.

The key barrier to civil accountability is qualified immunity. It is a federal doctrine that holds officers and their agencies harmless against federal

lawsuits unless the officer's action has already been "clearly established" as a constitutional violation in that court's jurisdiction. For example, in *Jessop v City of Fresno* (2019), police officers stole money, and the victims sued. However, the Ninth Circuit dismissed the lawsuit because no previous Ninth Circuit case had specifically stated that police stealing from plaintiffs was a violation of the Fourth Amendment. Since no two situations will ever be exactly the same, many important civilian lawsuits are dismissed. When such cases are discarded, the media firestorm has a devastating impact on public trust in the justice system.

Qualified immunity is deeply unpopular. Two-thirds of Americans say that civilians need to have the power to sue police officers in order to hold them accountable for misconduct and excessive use of force, even if that makes police work more difficult. In fact, we believe it will make police work easier by helping us rebuild community trust.

Maryland cannot fix a federal issue, but state legislators have proposed legislation that would protect Maryland residents' constitutional rights through state court. House Bill 430 would give Marylanders the right to sue police for violating their rights and causing harm. The bill would close the federal qualified immunity loophole by allowing state courts to provide accountability and justice, preventing the government from escaping its responsibility.

Allowing the public to sue police may cause anxiety for honest, hard-working officers. However, the bill would not leave government employees and officers vulnerable to a flood of frivolous lawsuits. House Bill 430 does not impact officers who make basic mistakes or errors in judgment, only those who commit serious constitutional violations. [In almost all cases](#), any financial liability would fall on the city rather than the individual officer. In all cases, the bill caps personal liability at \$25,000.

The bottom line is that House Bill 430 would not bring open season upon law enforcement. It would simply allow judges to hear the facts of the most egregious cases, which are currently causing the public perception that police are above the law. By doing so, it would strengthen the ties between police and the people we swore an oath to protect and serve.

Thank you for considering this important issue.

Respectfully,

Major Neill Franklin (Ret.)
Maryland State Police

